

Remarks

In response to the Examiner's objection under 35 USC 11, Claim 21 has been amended to insert the words: "spring means for applying a force on the movable partition". This addresses the examiner's concern with respect to Claim 21. The Examiner also raised the same objection with respect Claims 23-25. However, those claims depend on to 21 and it is believed sufficient to recite "the spring means" in the subsequent claims without adding the further wording introduced into Claim 21.

The Examiner in his Office Action of August 26, 2005 advised that Claims 28, 29 and 32 would be allowable if rewritten in independent form including all the limitations of the base claims and any intervening claims.

The contents of Claim 32, which is dependent on Claim 22, as well as the contents of Claim 22 have now been added to Claim 21 rendering Claim 21 allowable. Correspondingly, Claims 22, 32 and 39 have been cancelled.

Claim 38 has been put into multiple dependent form. Further, a tree has been made part of the combination addressed by Claim 38.

The Examiner had cited Skinkle et al (US publ 2001/0056259 A1) and Graber (US 4,596,088) as the basis for 35 USC 102(b) rejections. The applicant objects that these references are taken from non-analogous art to the field to which Claim 38 applies, namely the inoculation of trees. Accordingly, the applicant reserves the right to reassert an application, notwithstanding these references, in respect of the field of inoculation of trees.

All of the residual claims in the application are dependent on Claim 21 as now amended. Accordingly, all of such claims should be allowable.

On this basis, the applicant and requests reconsideration of the pending claims as amended.

The Examiner withdrew Claims 35-37 and 40 from examination as being drawn to a non-elected species on the basis that there was no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the Response filed on July 14, 2005. The applicant requests that the withdrawn

status of these claims be cancelled and that these withdrawn claims be reinstated and allowed. Such claims depend upon, ultimately, Claim 21 which the Examiner has advised would be allowable.

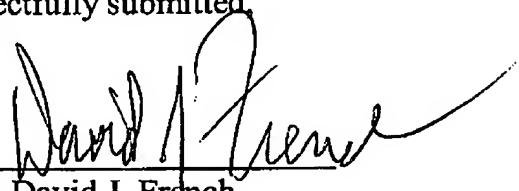
If this request is accepted, the applicant requests that Claim 40 be amended to correct its dependency as follows:

40. (Withdrawn) A method for injecting a fluid into a tree comprising the steps of:
- a) determining an injection depth of a fluid in a tree;
 - b) drilling a hole in the tree, the hole having a hole depth, the hole depth being no shallower than the injection depth;
 - c) providing a dispensing apparatus as in Claim ~~[[39]]~~ 21, said apparatus including the nozzle;
 - d) inserting the nozzle in the hole;
 - e) mating the canister to the nozzle,
- to thereby allow fluid from the canister to flow through the nozzle into the tree.

On this basis, it is believed that Claim 40 should be allowed as well

Respectfully submitted,

per


David J. French
Reg. No. 31229

P.O. Box 2486, Stn. D,
Ottawa, Canada K1P 5W6
Telephone: 613-567-7824 x232 x231
Telefax: 613-567-4689